THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 26839 OF 1995

Date: 19.12.2006

Between: M/s. Vorion Chemicals & Distilleries, Chittoor, rep., by its Manager, R. Muthukumaran.

… Petitioner

and

The Commissioner of Prohibition and Excise, Government of A.P., Hyderabad and another.

… Respondent.

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 26839 OF 1995

ORDER:

The short question which arises for consideration in this writ petition is as to whether the respondents are justified in directing the petitioners herein to pay license fee of Rs.10,00,000/- for the excise years 1989-90 to 1992-93 as against Rs.5,00,000/- per annum paid by the petitioner and whether they are justified in demanding interest on the differential license fee.

Rule 5 of the A.P. Distilleries rules, which was amended with effect from 01.10.1987, prescribed a variable license fee depending upon the production per annum, on the basis of which, the petitioner, whose production was above 5,00,000 and below 20,00,000 was required to pay licence fee, of Rs.5.00 lakhs. Rule 5 was again amended in G.O. Ms. No. 74 dated 01.02.1990 whereunder license fee was charged on the licensed capacity of production of the unit concerned. Neither was any exercise carried out to determine the licensed capacity of production of the petitioner's unit nor was the amount of the license fee required to be paid by them, determined.

Sri P. Girish Kumar, learned Counsel for the petitioner, would submit that, in the absence of any such legal requirement and in as much as the petitioner continued to pay a sum of

Rs.5,00,000/- per annum as its actual production was above 5,00,000, and below 20,00,000, the respondents merely on the basis of an audit objection had directed the petitioner herein to pay annual license fees of Rs.10,00,000/- and had demanded interest for the differential license fee required to be paid.

Learned Government Pleader for Excise would submit that, subsequent to the writ petition having been filed the Government, vide G.O.Ms. No. 993 dated 01.07.1996, had constituted an Officers' committee to examine and reconcile all arrears of rectified spirit and distilleries in the State and that its recommendations were accepted by the Government in G.O.Ms. No. 400 dated 03.07.2002. Learned Government Pleader would submit that, subsequent to the filing of the writ petition, the authorities had determined the license fee payable by the petitioner for the excise years 1989-90 to 1992-93 as Rs.5,00,000/- per annum and since the grievance in the writ petition has been substantially addressed, the cause in the writ petition does not necessitate adjudication. Learned Government Pleader would also state that, in accordance with the Officers' committee recommendations, the interest leviable on the differential license fee has also been reduced from the earlier 18% to a lower rate of interest. Learned Government Pleader would submit that, in view of the subsequent events, it would suffice if the respondents be permitted to determine the actual license fee payable by the petitioner for these excise years 1989-90 to 1992-93 and the applicable interest payable thereupon. Learned Government Pleader would submit that in case any amounts are

still due from the petitioner, the respondents should be permitted to collect the same and, in case excess has already been collected, to refund or adjust the said amount accordingly. I find considerable force in the submission of the learned Government Pleader. It would meet the ends of justice if the 1st respondent is directed to determine the actual annual license fee payable by the petitioner for the excise years 1989-90 to 1992-93 and the differential interest payable thereon and in case the petitioner has already paid in excess, of the amounts due with interest, to refund the same or adjust the said amount towards the license fee payable for subsequent excise years. In case any amount is due from the petitioner, it is open for the respondents to collect the amount due from the petitioner. The entire excise in this regard shall be completed within a period of three months from the date of receipt of a copy of this order after giving the petitioner an opportunity of being heard.

The writ petition is accordingly disposed of. However, in the circumstances, without costs.

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Date: 19.12.2006 RAMESH RANGANATHAN, J

MRKR